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FILED
JAN 23 1959
JAMES R. BROWNING, Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, 1958

No. 617

PETER PAUL, INC., *et al.*,
Petitioners,

—against—

REDERI A/B PULP,
Claimant-Respondent,

and

REDERI A/B JAMAICA, D/S A/S EIKLAND and SALAMIS A/S,
Respondents.

REPLY BRIEF ON BEHALF OF PETITIONERS

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Respondents' brief in opposition to the petition evades the issues raised by the petitioners, and aptly illustrates the importance of the questions involved and the reasons why the Writ should be granted.

At page 10 of their opposing brief, respondents say "There was never any exterior damage to the sheer strake". This statement assumes the desired conclusion. As pointed out in the petition (pp. 14-20) there is no evidence whatever establishing either the presence or absence of exterior damage to the sheer strake when the vessel sailed from Yokohama. The

decisions of this Court and of the Courts of Appeal for the Third, Fourth, Fifth and Ninth Circuits impose on respondents the burden of establishing the absence of such damage at that time; and the decision of the Court of Appeals for the Second Circuit sought to be reviewed here is in conflict with those decisions.

The truncated quotation from the opinion of the Court of Appeals in this case (p. 8 of respondents' brief) does not constitute an affirmance of the District Court findings. The portion quoted is followed by the words "but through a different reasoning"; and, (after an explanatory paragraph) by the statement "In our opinion it is not necessary and virtually impossible to state with any degree of certainty what actually caused the fracture." It is that finding of the Court of Appeals which requires corrective action by this Court.

Respectfully submitted,

HENRY N. LONGLEY,
JOHN W. R. ZISGEN,
Counsel for Petitioners.